IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.1142 OF 2005

ALONG WITH

CIVIL APPLICATION NO.1410 OF 2005

Shri Rajesh Natwarlal Rawal ...Appellant

Versus

The Commissioner,

Mira Bhayandar Municipal Corporation ...Respondent

.....

Mr.A.Y.Sakhare, Sr.Counsel with Mr.S.D.Patil

for Appellant.

Mr.R.S.Apte for Respondent.

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CORAM: A.M.KHANWILKAR, J.

FEBRUARY 20, 2006.

P.C.

1. This Appeal can be disposed of on the basis of assurance given by the Counsel for the Corporation on instructions that the appropriate authority will consider the claim of the Appellant for regularisation of the suit structure in

accordance with law. Accordingly, if that course is to be adopted, nothing will survive for consideration in the present Appeal or for that matter in the suit as filed by the Appellant. In the circumstances, this Appeal is disposed of on the following basis.

2. The Appellant shall make necessary representation/application addressed to the Commissioner of Mira-Bhayander Mahanagar Municipal Corporation within three weeks from today praying for regularisation of the suit structure accompanied by necessary documents to support its claim. That application be preferred through registered Architect so as to comply with necessary formalities. If such application is not filed within three weeks from today, it will be open to the Corporation to take appropriate action against the suit structure as may be advised and permissible by law.

3. If such application is filed within time, the Commissioner himself or any other Officer competent to decide such request may be directed to

dispose of the representation/application so preferred by the Appellant within four weeks from the date of presentation thereof to the Commissioner.

4. In case of any adverse order passed against the Appellant, the Corporation shall not take any precipitative action for a period of two weeks from the date of communication of the order so as to facilitate the Appellant to take up the matter in Appeal or any other appropriate proceedings as may be permissible by law, if so advised.

5. Needless to observe that till the representation or the Application to be preferred by the Appellant is finally disposed of by the appropriate authority, the Corporation shall not take any action in respect of the suit structure on condition that the Appellant shall not create third party rights in the suit structure till then.

6. Appeal and the cognate Civil Application disposed of on the above terms.

7. As mentioned earlier, in view of the course adopted by the parties, nothing will survive in the Suit filed by the Appellant before the Trial Court. It will be open for the parties to request the Trial Court to formally dispose of the Suit. If su ch application is made, appropriate orders be passed by the Trial Court in that behalf.

A.M.KHANWILKAR, J.